SELECT JOINT COMMISSION ON MEDICAID OVERSIGHT

Legislative Services Agency
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MEETING MINUTES[1]

Meeting Date:	**August 22, 2001**
Meeting Time:	**10:30 A.M.**
Meeting Place:	**State House, 200 W. Washington St., Senate Chambers**
Meeting City:	**Indianapolis, Indiana**
Meeting Number:	**2**

Members Present: **Sen. Patricia Miller, Chairperson; Sen. Robert Meeks; Sen. Steve Johnson; Sen. Rose Antich; Sen. Vi Simpson; Sen. Samuel Smith; Rep. Charlie Brown; Rep. William Crawford; Rep. Susan Crosby; Rep. Gary Dillon.**

Members Absent: **Rep. Mary Kay Budak; Rep. David Frizzell.**

Senator Miller called the meeting to order at approximately 10:45 a.m. Senator Miller reminded the Commission that the next meeting would be September 12, 2001, at 10:30 a.m.

[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.ai.org/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Proposed Medicaid Cuts in Pharmacist Reimbursement

Grant Monahan, President, Indiana Retail Council

Mr. Grant Monahan stated that the Office of Medicaid Policy and Planning's (OMPP) proposed Medicaid pharmacist reimbursement cuts would result in a 35%-40% cut for pharmacists.

Carlos Ortiz, CVS Pharmacies

Mr. Carlos Ortiz stated that the proposed cuts in pharmacist reimbursement would result in a 40% cut for CVS. Mr. Ortiz commented that the Medicaid budget is increasing but that the increase is not because of pharmacist reimbursement costs but because of the following: (1) Medicaid covers the sickest and most disabled who are often the most expensive people to take care of; and (2) the public's demand for brand name drugs.

Mr. Ortiz stated that CVS does about $100 million of business in Indiana Medicaid but CVS wrote off $1.6 million due to the spend down provisions of Medicaid, uncollected co-payments, and other reasons. Mr. Ortiz compared this to CVS's $150 million PCS private industry business, in which CVS only wrote off $51,000. Mr. Ortiz stated that this reflects that the Medicaid program should not be compared to private insurance because the programs are so different.

Responding to a question, Mr. Ortiz stated that it costs CVS approximately $7 to dispense a drug; however, Medicaid currently reimburses only $4. Thus, CVS has to make up this dispensing loss in the overall cost of the drug. Mr. Ortiz stated that a lot of pharmacies can purchase drugs at a better price than average wholesale price (AWP)-10%, but that the pharmacy needs to recoup some of its dispensing costs.

In response to a question, Mr. Ortiz stated that the rising cost of drugs can be attributed to the following: (1) cheaper therapy is being replaced with more expensive therapy; (2) pharmaceutical companies are raising prices; (3) higher utilization of drugs is occurring; and (4) sicker people (who are often on Medicaid) have more prescriptions. Mr. Ortiz commented that sometimes doctors prescribe the more expensive therapies without considering less expensive alternatives. Also, pharmaceutical companies charge more where federal governmental controls do not exist.

In response to a question concerning how AWP is calculated, Mr. Ortiz explained that AWP is, for the most part, set by the manufacturer. More and more manufacturers have recently moved away from setting the AWP, which results in the wholesaler setting the AWP.

Mr. Ortiz stated that Florida is implementing some good ideas. For example, Florida has entered into a contract with Pfizer in which Pfizer sends nurse practitioners to educate doctors in disease management. Pfizer has guaranteed Florida that this and other programs implemented by Pfizer will save Florida $33 million over the next two years. In response to a question concerning whether Florida's contract with Pfizer was being challenged in court for exclusivity, Mr. Ortiz stated he had not heard of a lawsuit.

Mr. Ortiz also explained that Florida has implemented another controversial program in which Florida Medicaid recipients are limited to four brand name prescriptions per month and unlimited generic prescription drugs. Mr. Ortiz estimated that this approach would save Indiana Medicaid approximately $50 million. In response to a question concerning

whether this has increased in-patient hospitalization, Mr. Ortiz stated he did not know and had not seen any statistics on this.

Senator Miller informed the Commission that a lawsuit had been filed against the state and OMPP, challenging the proposed cuts in Medicaid reimbursement to pharmacists. The court issued a temporary restraining order barring OMPP from implementing the reimbursement cuts and set a court hearing on the matter for September 21, 2001.

Ralph Anderson, Pharmacist, Crowder's Healthcare Pharmacy

Mr. Ralph Anderson provided the Commission with an invoice indicating that the proposed pharmacist reimbursement cuts would actually result in a loss of $0.57 on a particular drug, not factoring in pharmacy overhead salaries, expenses, etc. (See Exhibit 1. Exhibit 1 also includes Mr. Anderson's prepared statement, two affidavits, and various articles concerning Medicaid.)

Mr. Anderson stated that the pharmacy program is 16% of Indiana's Medicaid budget, and only 10% of that 16% is attributed to pharmacy reimbursement fees. Mr. Anderson stated that if the proposed cuts go into effect, pharmacies will have to reduce staff, decrease store hours, cut store services, or possibly even close one or two stores. Mr. Anderson explained that cost shifting to other customers would be extremely difficult, if not impossible. Mr. Anderson told the Commission that he offered to help OMPP in January to come up with other alternative savings for Medicaid and he is still willing to help.

In response to a question, Mr. Anderson stated that there are ways to cut the Medicaid budget without destroying Indiana's delivery system. For example, an option is limiting the amount of supply that can be filled at one time or encouraging the use of generic drugs through "brand medically necessary."

Jeff Stamps, Senior Vice President of Operations, Omnicare

Mr. Jeff Stamps stated that he strongly opposes the proposed reductions in pharmacist reimbursement. (Mr. Stamp's written testimony is provided as Exhibit 2). Mr. Stamps explained that Omnicare is a company that provides pharmaceutical products and services to residents of long term care facilities. Omnicare also provides emergency medication services 24 hours a day, 365 days a year.

Mr. Stamps informed the Commission that the Indiana Prescription Drug Advisory Task Force commissioned a study regarding escalating pharmacy costs which was completed in July, 2000. The study was performed by PRIME Institute at the University of Minnesota. (For more information about this study, See Exhibit 2).

Mr. Stamps stated that Omnicare has taken it upon itself to institute the most clinically beneficial therapeutic interchange programs designed to reduce costs for all payors, including Medicaid. Mr. Stamps informed the Commission that Omnicare dispensed 1,328,377 prescriptions that were reimbursed by Indiana Medicaid in 2000. The average reimbursement rate for these prescriptions filled by Omnicare was $35.89, compared to the $41.09 average reimbursement rate in 2000 for all Medicaid prescriptions filled in Indiana. The one year savings passed on to Indiana was $6 million and this was only one company. These savings were accomplished through monitoring effective therapeutic management systems. The proposed pharmacist reimbursement cuts will make cost-saving programs like this unaffordable.

The Commission asked Mr. Anderson and Mr. Stamps to provide the Commission with

alternative cuts and savings for Medicaid.

Robin Taylor, Member, American Society of Consultant Pharmacists

Mr. Robin Taylor voiced his strong opposition to the proposed pharmacist reimbursement cuts. (Mr. Taylor's written testimony is provided as Exhibit 3). Mr. Taylor stated that a reduction in Medicaid reimbursement for prescription drugs will have a detrimental effect on the care received by seniors in Indiana's nursing facilities and long term care facilities. Mr. Taylor discussed the following: (1) the pharmacy services provided by consultant pharmacists are necessary and essential to ensure quality care for Indiana's elderly population; (2) the pharmacist fee cuts will reduce the quality of care received by long-term care residents; and (3) the essential services provided by consultant pharmacists and long-term pharmacies deserve a fee increase instead of a fee decrease.

Ms. Julie Newland, Eli Lilly and Company

Ms. Julie Newland stated that cuts to the Medicaid program generally come from one or more of the following areas: (1) limiting the number of enrollees; (2) cutting provider reimbursement; (3) controlling or limiting utilization of services or products or limiting access to services or products; or (4) allowing for better management of the program. (A summary of Ms. Newland's comments is provided as Exhibit 4). In determining where cuts should be made in the program, Ms. Newland stated that OMPP should look at the duration and amount of bookable fiscal savings that will occur and consider the cost offsets to other parts of the Medicaid program. (See Exhibit 4 for an estimate of the fiscal year 2002 savings if the proposed cuts to the Medicaid pharmacy program are implemented.)

Ms. Newland stated that the proposed cuts may result in quick savings but will not address the systemic issues that are the larger cost drivers in the Medicaid pharmacy program. Ms. Newland named the following cost drivers: (1) an increase in the utilization of drugs; (2) an increase in number of Medicaid recipients; (3) Medicaid recipients with multiple chronic diseases who use numerous prescription drugs; (4) ineffective point-of-sale drug utilization review (DUR); (5) newly developed single source drugs; and (6) fraudulent activities. For more detailed information, see Exhibit 4.

Ms. Newland briefly described the federal requirement that pharmaceutical manufacturers give their "best price" to Medicaid. Ms. Newland explained that federal law establishes a formula under which Indiana Medicaid is offered "best price," which is a discount from the average manufacturer price (AMP).

In response to a question concerning buying prescription drugs for less in Canada, Ms. Newland explained that Canada's government has price controls and also subsidizes prescription drugs and health benefits. However, Canada does not invest in research and development of new drugs. Most research and development of new innovative drugs is done in the United States.

Responding to a question, Ms. Newland stated that after the patent for a single source drug expires, the first generic drug filed with the FDA has a six-month exclusivity period in which time no other generic of that particular drug may enter the market.

Ms. Newland responded to a question concerning disease management, stating that many private industries utilize a disease management program and that the long term care industry probably has a disease management model to review. Ms. Newland also stated that Arkansas has a disease management program that uses drug utilization review in

determining and tracking the prescribing habits of the state's doctors. Ms. Newland mentioned that pharmaceutical sales representatives can be used to provide disease management information to physicians. Various educational symposiums could also be used to inform doctors of disease management tools.

In response to a question regarding pharmaceutical advertising, Ms. Newland stated that the intended purpose of advertising by pharmaceutical companies is to educate the public, including doctors, about a disease and particular drug therapies. The Federal Trade Commission regulates the contents of these advertisements. Ms. Newland stated that most physicians would not be compelled by a patient who has seen an advertisement to prescribe a drug if the drug is not the right therapy for the patient.

Kathy Gifford, Assistant Secretary, OMPP

Ms. Kathy Gifford stated that a temporary restraining order was issued against the state on August 21, 2001, which prevented the state from implementing the proposed pharmacist reimbursement cuts until a court hearing in September, 2001.

Ms. Gifford stated that OMPP held its first work group meeting with the pharmacists this week and that the group would be meeting once a week for the next month.

In response to a question, Ms. Gifford stated that the group with the largest Medicaid enrollment increase in recent months is children. Ms. Gifford explained that OMPP is not currently conducting aggressive community outreach programs for the Children's Health Insurance Program (CHIP). In response to a question concerning whether the increase in Medicaid's budget is because of increase in enrollment or because of an increase in the cost of services, Ms. Gifford, referring to the April budget forecast handout she previously gave legislators, noted that the per member per month (PMPM) cost for aged and disabled participants who are not in long-term care was projected to increase by nine percent from FY 2001 to FY 2002 and that the PMPM cost for children and pregnant women and children was projected to increase by 4.9% for the same time period. Ms. Gifford explained that since these projections were based on PMPM cost, not overall program costs, the effect of increased program enrollment was excluded.

Responding to a question concerning the possible effects of the pharmacist reimbursement cuts on access, Ms. Gifford stated that OMPP has a duty to provide adequate access for Medicaid recipients and that OMPP will monitor access to make sure that it is adequate.

Responding to a question concerning disease management status, Ms. Gifford stated that OMPP has selected a consultant to design a request for proposal for a targeted disease management program. Ms. Gifford also stated that she will review the results of Florida's disease management program once those statistics are available.

The meeting was adjourned at 1:05 p.m.